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OFFICE OF PETITIONS

Applicant: Dykes, et al.

Appl. No.: 10/578,453

International Filing Date: November 5, 2004

Title: DISPOSABLE FLUID SAMPLE COLLECTION DEVICE

Attorney Docket No.: 027027.077100

Pub. No.: US 2008/0025872

Pub. Date: January 31, 2008

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on July 31, 2008, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the application wherein six of the inventors' names have been omitted.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed **within two months** from the date of the patent application publication. **This period is not extendable.**" A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹

The instant request filed on July 31, 2008 is not timely filed.

Moreover, the omission of an inventor's name and residence does not affect the understanding of the application. The mistakes do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

On October 22, 2007, a Filing Receipt was mailed by the Office, which improperly listed the inventive entity. To avoid this type of problem in the future, applicant's representative should make request a corrected filing receipt.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

A guide for filing a request for a Pre-Grant Publication, such as a request for republication, may be found on the link below:

<http://www.uspto.gov/ebc/portal/tutorials.htm>

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.



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